

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES SEABROOK,

Plaintiff,

– against –

JANSSEN PHARMACEUTICALS INC, et al.,

Defendants.

ORDER

20 Civ. 2005 (ER)

Ramos, D.J.:

Plaintiff, currently incarcerated at Rikers Island, brings this *pro se* action alleging that Defendants failed to warn him of the side effects of his medication, Zyprexa, and to diagnose his medical condition. By order dated March 16, 2021, the Court granted Plaintiff’s request to proceed without prepayment of fees, that is, *in forma pauperis*.¹

DISCUSSION

A. Service on Defendants Janssen Pharmaceuticals Inc., Alex Gorsky, Natasha Myles, and Jacques Hacquebord

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses and the complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed *in forma pauperis*. *See* 28 U.S.C. § 1915(b)(1).

summons be issued. The Court therefore extends the time to serve until 90 days after the date summons are issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants Janssen Pharmaceuticals Inc., Alex Gorsky, Natasha Myles, and Jacques Hacquebord through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Service Address for Michael Bolus

Plaintiff names Michael Bolus as a defendant, but he does not provide an address where this defendant may be served. The Court therefore directs Plaintiff, within 30 days of the date of this Order, to provide the Court with an address where this defendant may be served. If Plaintiff fails to comply within the time allowed, and he cannot show good cause to excuse such failure, the Court will dismiss this defendant without prejudice.

CONCLUSION

The Clerk of Court is directed to mail a copy of this Order to Plaintiff, together with an information package.

The Clerk of Court is further instructed to issue summonses as to Janssen Pharmaceuticals Inc., Alex Gorsky, Natasha Myles, and Jacques Hacquebord, complete the USM-285 forms with the addresses for these defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Court directs Plaintiff to provide the Court, within 30 days of the date of this Order, an address where Michael Bolus may be served.

SO ORDERED.

Dated: October 28, 2021
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

EDGARDO RAMOS, U.S.D.J.

DEFENDANTS AND SERVICE ADDRESSES

1. Janssen Pharmaceuticals Inc.
1125 Trenton-Harbourton Road
Titusville, NJ 08560
2. Alex Gorsky
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
3. Natasha Myles
Bellevue Hospital Center
462 1st Avenue
New York, NY 10016
4. Jacques Hacquebord
Bellevue Hospital Center
462 1st Avenue
New York, NY 10016